IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4714 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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ALLARAKHA ALIAS HAKO SUMARBHAIMAJTHI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4714 of 2002

MS SUBHADRA G PATEL for Petitioner No. 1

Mr AY KOGJE Ld. AGP for Respondent No. 1-3

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 14/08/2002

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution of India the petitioner-detenu has challenged the legality and validity of the detention order passed by the Police Commissioner, Rajkot City

dated 27.3.2002 in exercise of powers vested in him under Section 3(2) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as 'the PASA Act').

Heard the learned counsel for the parties. When Special Civil Application No. 4925 of 2002 was being heard, it was agreed between the parties that considering the similarity of the facts, the court can dispose of this petition also adopting same reasons.

The petitioner in the present was found involved in seven offence punishable under the Bombay Prohibition Act between 2000-2002. In all the cases, the country liquor was found from the petitioner. The country liquor found by the police is not in a big or alarming quantity.

Ld. AGP Mr. Kogje has not pressed for the separate reasons in the present petition. The reasons assigned by the Court in SCA No. 4925 of 2002 are adopted as reasons for setting aside the order of detention passed against the present petitioner-detenu. The date of order of detention is also same in both petitions and has been passed by the same authority. So, adopting the reasons assigned by the Court in above referred SCA No. 4925 of 2002, the order of detention in the present case is also required to be quashed and set aside considering the involvement of the petitioner as detrimental to the maintenance of law and order and not to the public order.

In the result, this petition is allowed. The impugned order of detention dated 27.3.2002 passed by the Police Commissioner, Rajkot City, against the detenu is hereby quashed and set aside. The detenu is hereby ordered to be set at liberty forthwith, if he is not required to be detained in any other case. Rule is made absolute accordingly. DS permitted.

(C.K. BUCH, J.)
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